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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,224	01/16/2002	Reinhold Schopf	DT-6040	6388

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EXAMINER

COHEN, AMY R

ART UNIT	PAPER NUMBER
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2859

DATE MAILED: 09/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/050,224

Applicant(s)

SCHOPF ET AL.

Examiner

Amy R Cohen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4,8,10 and 11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 4,8,10 and 11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

2. Claims 4, 8, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by McMurtry (U. S. Patent No. 4,301,338).

McMurtry teaches a stylus (3), comprising a stem (20) having a breaking point (24) formed as a circumferential notch; and a shrink sleeve (27) covering at least a section of the stem containing the breaking point (Fig. 1).

McMurtry teaches the stylus wherein the stem is formed as a one-piece member (Fig. 1).

McMurtry teaches the stylus wherein the stem has means for connecting the stem to a touch probe (14), and wherein the breaking point is spaced from the connecting means (Fig. 1).

McMurtry teaches a coordinate-measuring apparatus (Col 1, lines 14-23), comprising a touch probe (14); and a stylus (3) connectable to the touch probe (Fig. 1) and including a stem (20) having a breaking point (24) formed as a circumferential notch; a shrink sleeve (27) covering at least a section of the stem containing the breaking point; and means for connecting the stem with the touch probe and spaced from the breaking point (Fig. 1).

Response to Arguments

3. Applicant's arguments filed 25 August 2003 have been fully considered but they are not persuasive.

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4. Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, they do not show how the amendments avoid such references or objections.

Applicant's arguments regarding claim 10 merely state that there is a difference between the prior art and the current application, however, the difference is not clearly pointed out and not claimed.

Applicant's arguments regarding claims 5 and 6, the arguments to the 103 rejection of the previous office action, are moot since claims 5 and 6 were cancelled in the current amendment.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents disclose probes with breaking points Frey (U. S. Patent No. 6,036,671), Bennwik et al. (U. S. Patent No. 5,709,659), Novacek et al. (U. S. Patent No. 5,360,404), Van der Merwe (U. S. Patent No. 5,318,537), Lemelson (U. S. Patent No. 4,270,536), Whitney (U. S. Patent No. 4,220,151). And Johnston et al. (U. S. Patent No. 4,027,669).

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy R Cohen whose telephone number is (703) 305-4972. The examiner can normally be reached on 8 am - 5 pm, M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego Gutierrez can be reached on (703) 308-3875. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3431.

ARC

September 11, 2003



Diego Gutierrez
Supervisory Examiner
Tech Center 2800